

TOWN OF PLAINFIELD
Development Review Board

Appeal of zoning permit to construct single-family residence

Permit Application No. 2017-24

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves the appeal of a zoning permit granted to Robert Bridges on 9/22/2017 to construct a 3-bedroom residence.
2. An appeal, postmarked 10/6/17 and received at the town office on 10/11/17, was filed by Brooke Dingleline, attorney representing Inda Loso. Loso appeals the permit on the grounds that the applicant did not demonstrate that his R.O.W. had sufficient width to satisfy the zoning ordinance and that the Zoning Administrator failed to post a public notice in view of a public way as required.
3. On 10/30/17, notice of a public hearing was posted at the following locations:
Plainfield Town Offices, Plainfield Post Office, and Plainfield Co-op
4. On 10/31/17, notice of a public hearing was published in the *Times Argus*.
5. On 10/21/2017, a copy of the notice of a public hearing was mailed to the following owners of properties adjoining the property subject to the application:
Cady Hart Judith Fowler Lloyd Farnham Robert Bridges
Sandra Wells Ross Sneyd Warren Hathaway
6. The appeal was considered by the DRB at a public hearing on 11/8/17. The DRB reviewed the appeal under the Town of Plainfield Zoning Regulations, as amended March 1, 2011.
7. Present at the hearing were the following members of the DRB:
Chair Janice Walrafen, Elaine Parker and Sarah Albert
Also present were Karen Storey, Zoning Administrator, and Cindy Wyckoff, Minutes Recorder.
8. The following persons were present at the hearing and requested status as interested persons under 24 V.S.A. § 4465(b):
Inda Loso Maurice Cerutti Tammy Brochu Judith Cerutti Dix
Matthew Laggner Courtney Laggner Robert A. Bridges Michael Caccavo
Gary Graves Lloyd Farnham Shelley Vermilya Lucinda Garthwaite
Deb Gibson Brooke Dingleline

FINDINGS

Based on the application, testimony, exhibits, and other evidence the development review board makes the following findings:

1. The zoning administrator issued a permit to Robert Bridges on 9/22/2017 to construct a 3-bedroom residence and a 50'x80' barn on a 44.2 acre lot accessed from the end of Cerutti Road. (Tax map no. 05-029.000)
2. The property is located in the Forest & Agricultural District as described on the Town of Plainfield Zoning Map and Section 4.2 of the Zoning Regulations. The lot does not have frontage on a public road; prior to its creation in 2009 Bridges applied to the Planning Commission for approval of an existing deeded right-of-way as an access to the proposed subdivision (ZP2008-40). The deeded right-of-way was originally granted in 1917 (Book 12, pg. 328, Town Land Records) from the end of Cerutti Rd. to the property now owned by Bridges, a distance of $\pm 75'$.
3. On 4/6/2009 the Planning Commission conducted a site visit and hearing to determine whether the deeded right-of-way was in compliance with section 3.4 of the zoning regulations, Required Frontage on or Access to Public Roads. The minutes of that hearing state "The Planning Commission, having examined and read the language of the existing deed, and heard relevant testimony, determines that the ROW across the property of Inda Loso is in accordance with interim zoning regulation 3.4. This approved ROW will provide access to the requested subdivision of Rob Bridges."
4. The decision of the Planning Commission was not appealed.
5. Maurice Cerutti testified that he is not contesting the existence of the right-of-way, but its width. He also stated that the last section of Cerutti Road was too steep to allow a line of sight to oncoming vehicles and that increased traffic past Inda Loso's house created safety issues.
6. Tammy Brochu noted that Section 3.4 of the Zoning Regulations states that the right-of-way needs to be at least 20 feet in width, so the permit is not in compliance with the zoning.
7. Robert Bridges presented photographs of the posted zoning sign, noting that it was posted within view of the end of Cerutti Road. The last section of Cerutti Road is Class 4 and not town-maintained. There is a town truck turnaround at the end of the Class 3 section.
8. Michael Caccavo, attorney for Robert Bridges, stated that because we have established that the posting of the appeal was done in view of the public highway and that the Town's 2009 approval of the right-of-way was not appealed, there are no grounds for appealing the permit.
9. Brooke Dingleline, attorney for the appealing party, stated that section 3.4 of the zoning regulations prohibit developing the subdivided property unless the permit applicant can demonstrate to the Development Review Board that the right-of-way is at least 20-feet wide. She submitted research from a surveyor stating that none of the recorded deeds in the chain of ownership indicated the width of the right-of-way. She maintains that the judgement regarding the width of the right-of-way needs to be made by a court, and that it was not proper for the Town to make that decision.
10. DRB member Albert, who was on the Planning Commission when the right-of-way was approved, stated that—whether correct or not—the decision was made and was not appealed, and that the DRB can't rescind a right already granted to Bridges.

DECISION AND CONDITIONS

Based upon these findings and other testimony presented at the hearing, the Development Review Board votes to deny the appeal and uphold the Zoning Administrator’s granting of Zoning Permit 2017-24 to Robert Bridges for the construction of a 3-bedroom house and barn.

Voting in favor: Janice Walrafen, Elaine Parker and Sarah Albert.
The decision carries 3–0.

Dated at Plainfield, Vermont, this ___ day of _____, 2017.

Janice Walrafen, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.